

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Nashua Public Library	)	File No. SLD-187440
Waterloo, Iowa	)	
	)	
Hudson Public Library	)	File No. SLD-185751
Waterloo, Iowa	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45 ✓
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: December 3, 2001**

**Released: December 4, 2001**

By the Accounting Policy Division, Common Carrier Bureau:

1. Before the Accounting Policy Division (Divison) are Requests for Review filed by Northeastern Iowa Regional Library System (NIRLS), Waterloo, Iowa, on behalf of applicants Nashua Public Library (Nashua), Waterloo, Iowa, and Hudson Public Library (Hudson), Waterloo, Iowa (collectively, Requests for Review).<sup>1</sup> In both cases, NIRLS appeals the decision of the Schools and Libraries Division (SLD) of the Universal Service Administrative Company to deny each applicant's Funding Year 3 application for discounts under the schools and libraries program.<sup>2</sup> As both Requests for Review present the same question, we address them together in this decision. For the reasons discussed, we grant the Requests for Review and remand for further consideration of both applications.

<sup>1</sup> Letter from Kenneth Davenport, Northeastern Iowa Regional Library System, to Federal Communications Commission, filed April 12, 2001 (Nashua Request for Review); Letter from Kenneth Davenport, Northeastern Iowa Regional Library System, to Federal Communications Commission, filed April 12, 2001 (Hudson Request for Review) (collectively, Requests for Review).

<sup>2</sup> Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

2. Under the school and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library, or consortium that includes eligible schools or libraries must seek competitive bids for all services eligible for support.<sup>4</sup> In accordance with the Commission's rules, an applicant must file with SLD, for posting to its website, an FCC Form 470 requesting services.<sup>5</sup> The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471 requesting support for the services ordered by the applicant.<sup>6</sup> Further, the instructions for the FCC Form 471 state that the date of signature on the Block 6 certification page of the FCC Form 471 "CANNOT be earlier than any Allowable Contract Date you cited in Item (17) of any Block 5 submitted with this application."<sup>7</sup>

3. Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.<sup>8</sup> In Funding Year 3, applicants could file their FCC Form 471s either by mail or by using the on-line application process available on SLD's web site to file their FCC Form 471s electronically.<sup>9</sup> Regardless of the method chosen, in Block 6 of the FCC Form 471, applicants were required to make certain certifications.<sup>10</sup> Applicants that filed their FCC Form 471s electronically had to print out a Block 6 certification page at the end of the on-line application filing process and then, after signing and dating the certification page, were required to separately submit it by mail.<sup>11</sup>

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<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

<sup>4</sup> 47 C.F.R. §§ 54.504, 54.511(c).

<sup>5</sup> See Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470).

<sup>6</sup> 47 C.F.R. § 54.504(c); see Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 471).

<sup>7</sup> Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471) (September 1999) (FCC Form 471 Instructions), at 26.

<sup>8</sup> 47 C.F.R. § 54.504(c).

<sup>9</sup> FCC Form 471 Instructions, at 5.

<sup>10</sup> See FCC Form 471, Block 6.

<sup>11</sup> FCC Form 471 Instructions, at 24.

4. Hudson Public Library and Nashua Public Library electronically filed their Funding Year 3 applications on January 17, 2000 and January 18, 2000, respectively.<sup>12</sup> SLD denied both applications because “[t]he Form 471 application was signed and/or submitted prior to the expiration of the 28-day waiting period from the day of the posting of the Form 470 to the SLD Web Site.”<sup>13</sup> NIRLS appealed both decisions to SLD, asserting that the dates entered by the applicant on the Block 6 certification pages were erroneous and that both applications were actually signed after the end of the 28 day waiting period.<sup>14</sup> NIRLS asserted that Nashua and Hudson both filed their FCC Form 471s electronically and that, because “the signature page[s] could not be obtained from any source except as a print out from the SLD site,” they constituted evidence that the 28-day waiting period had not been violated for either application.<sup>15</sup>

5. SLD affirmed the Hudson Funding Decision on March 13, 2001.<sup>16</sup> It found that the earliest date on which Hudson could sign and submit an FCC Form 471 after the end of the waiting period was January 16, 2000, and that the applicant had entered a date of January 14, 2000 on the FCC Form 471 signature page.<sup>17</sup> SLD concluded on this basis that the FCC Form 471 had been signed prior to the expiration of the 28 day waiting period.<sup>18</sup>

6. Similarly, SLD affirmed the Nashua Funding Decision on March 19, 2001.<sup>19</sup> It noted that the earliest date on which Nashua could sign and submit an FCC Form 471 was January 18, 2000, and that Nashua’s FCC Form 471 was signed and dated January 17, 2000.<sup>20</sup> SLD again concluded that the FCC Form 471 had been signed prior to the expiration of the 28 day waiting period, and denied the appeal.<sup>21</sup>

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<sup>12</sup> See FCC Form 471, Hudson Public Library, filed January 17, 2000; FCC Form 471, Nashua Public Library, filed January 18, 2000.

<sup>13</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ken Davenport, Nashua Public Library, dated May 26, 2000, at 5 (Nashua Funding Decision); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ken Davenport, Hudson Public Library, dated June 30, 2000, at 5 (Hudson Funding Decision).

<sup>14</sup> Letter from Ken Davenport, Northeast Iowa Regional Library System, to Schools and Libraries Division, Universal Service Administrative Company, filed June 26, 2000 (Nashua Appeal to SLD); Letter from Ken Davenport, Northeast Iowa Regional Library System, to Schools and Libraries Division, Universal Service Administrative Company, filed July 10, 2000 (Hudson Appeal to SLD).

<sup>15</sup> Nashua Appeal to SLD, at 1; Hudson Appeal to SLD, at 1.

<sup>16</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ken Davenport, Hudson Public Library, dated March 13, 2001 (Administrator’s Decision on Hudson Appeal).

<sup>17</sup> *Id.* at 2.

<sup>18</sup> *Id.* at 1-2.

<sup>19</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Ken Davenport, Nashua Public Library, dated March 19, 2001 (Administrator’s Decision on Nashua Appeal).

<sup>20</sup> *Id.* at 1.

<sup>21</sup> *Id.*

7. NIRLS then filed an identical Request for Review in both cases. In its Requests for Review, NIRLS argues that, when Nashua and Hudson printed out their Block 6 certification for mailing to SLD, the actual dates and times of printing were indicated as footers at the bottom of each page, and further that these electronic date-stamps indicate that the pages were signed after the waiting period was over.<sup>22</sup> Specifically, NIRLS notes that the electronic date stamp on Nashua's printed certification page reads January 18, 2000, and argues that because the document could not be signed before it was printed out, this evidence establishes that January 18, 2000 is the true date of signing rather than the date entered by the applicant, January 17, 2000.<sup>23</sup> NIRLS further asserts that, because January 18, 2000 is the first permissible day on which Nashua could sign and submit an FCC Form 471 based on its FCC Form 470, a signing on this date would not violate the 28 day waiting period.<sup>24</sup> Similarly, NIRLS argues that the electronic date stamp on Hudson's certification page, January 17, 2000, demonstrates that the page could not have been signed before that date, notwithstanding the date entered by the applicant, January 14, 2000, and that Hudson thus did not violate the 28 day waiting period by signing prior to January 16, 2000.<sup>25</sup>

8. Upon consideration of the record, we conclude that SLD erred in denying the pending applications from Nashua and Hudson. We have reviewed the record, including the applicants' FCC Form 471s and related documents. Although each FCC Form 471 application, on its face, bears a signature date prior to the expiration of the 28-day waiting period, the date stamps on the signature pages demonstrate that the signature dates entered by the applicants were erroneous and that both applications were, in fact, signed after the expiration of the 28 day waiting period.<sup>26</sup>

9. The record thus demonstrates that no violation of the Commission's rules took place. The evidence available from the FCC Form 471s supports the claim that both applicants did wait the 28 days required by the Commission's rule before signing contracts and submitting FCC Form 471s. Because there was evidence within the applications to support the pending Requests for Review, we find it appropriate to reverse SLD and remand the two pending applications for further consideration.

10. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and

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<sup>22</sup> Nashua Request for Review at 2; Hudson Request for Review at 2.

<sup>23</sup> Nashua Request for Review at 2, attach. 3b.

<sup>24</sup> FCC Form 470, Nashua Public Library, filed December 21, 1999, at 1 (indicating allowable contract date of December 18, 2000).

<sup>25</sup> Hudson Request for Review at 2, attach. 4b.

<sup>26</sup> *Request for Review by Joliet Public Schools – District 86, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-149421, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 8765 (Com. Car. Bur. 2001) (finding no competitive bidding violation where documentation attached to application demonstrated that signature date prior to end of 28-day period was erroneous).

54.722(a), that the Request for Review filed by Northeastern Iowa Regional Library System on behalf of Nashua Public Library, Waterloo, Iowa, on April 12, 2001, IS GRANTED and Nashua Public Library's application is REMANDED to SLD for further consideration consistent with this Order.

11. IT IS FURTHER ORDERED that the Request for Review filed by Northeastern Iowa Regional Library System on behalf of Hudson Public Library, Waterloo, Iowa, on April 12, 2001, IS GRANTED and Hudson Public Library's application is REMANDED to SLD for further consideration consistent with this Order.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau